

OGC Has Reviewed

Approved For Release 2002/01/29 : CIA-RDP78-05246A000100040004-7

77-63-171

16 JUL 1962

RAH/LL

MEMORANDUM FOR: Comptroller

SUBJECT : Consultants

REFERENCE : Office of General Counsel Opinion 9-1136, dated
21 July 1959, Subject: Employment of Intermittent
Consultants

1. PROBLEM

Review the procedure and controls related to the appointment and payment of consultants to determine whether they are adequate and make any recommendations needed to strengthen them.

2. FACTS BEARING ON THE PROBLEM

a. Present Agency Regulations [REDACTED] provide that:

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- (1) Consultants are individuals with unusual skills, knowledge, or experience who are hired by the Agency in an advisory capacity; they may not serve in a supervisory or administrative capacity except as incidental to their advisory functions.
- (2) Deputy Directors shall determine the need for consultants within their jurisdiction and submit requests for employment of specific consultants to the Director of Personnel.
- (3) The Office of Personnel shall maintain central records of consultants employed by the Agency. The Office of Personnel shall be contacted, before any approach is made to an individual, to determine if the Agency already has a person qualified for the new requirement and, if so, it shall arrange for the joint use of the individual, providing he is available and the Director of Security concurs.
- (4) The Director of Personnel shall review individual requests for employment of consultants and submit recommendations to the Director of Central Intelligence (DCI) for final approval.

CONFIDENTIAL

SUBJECT : Consultants

- (5) The DCI shall grant final approval for the employment of specific individuals as consultants.
- b. After the DCI approves the employment of an individual as a consultant, security clearances and certifications relative to conflict of interest are obtained.
- c. When security clearances and conflict of interest certifications are favorable, the Office of Personnel requests the individual to sign a personal service contract and an appointment affidavit. A personnel action is then prepared and authenticated which formally appoints the individual as a consultant except that instead of issuing personnel actions for some individuals engaged as consultants who are receiving Federal retirement benefits, their services are contracted for as "independent contractors" on a "per consultation" basis to avoid the necessity for reductions in their retirement annuities (see reference).
- d. Agency regulations also require that Deputy Directors review annually, during the month of May, the use and frequency of use of individual consultants under their jurisdiction and make recommendations for the retention or termination of individual consultants. Regulations are now being revised based on a Presidential memorandum dated 9 February 1962 to require that no consultant appointment may exceed one fiscal year; hence, those consultants whose services are to be continued must be processed each year as though they were new appointments.
- e. Some consultants are paid from vouchered funds and some are paid from confidential funds. Basically the procedures are as follows:
- (1) After a consultant has been used a performance report is prepared showing the dates for which payment is requested. The following certification, over the signature of the consultant, is either typed, rubber stamped, or stapled to the performance report:
- "I certify that for the days covered by this report, during which I was employed, I have not received nor will I claim compensation from any other Government agency."
- (2) The performance reports are then approved but there is no uniformity as to the organizational level at which they are approved. For consultants paid from vouchered funds they are approved by the time and attendance clerk for the component to which the consultants' pay will be charged. Reports for consultants paid from confidential funds are approved at various organizational levels, such as by the Chief of Branch or his Deputy, the Case Officer, Personnel Officer, Administrative Officer, or secretary to the Chief of Division.

67-63-171

SUBJECT : Consultants

CONFIDENTIAL

(3) All payments to consultants are payrolled as opposed to being paid by individual vouchers.

2. Thirty-five individuals who were employed as consultants in fiscal year 1962 are being terminated as consultants and converted to independent contractors in fiscal year 1963 because their performance was more administrative and operational than in an advisory capacity.

3. DISCUSSION

The regulations and procedures relative to the appointment and payment of consultants appear adequate and proper except for the organizational level at which the performance reports are approved. It is believed that the performance reports should be approved by the Deputy Director or a single senior subordinate designated by him or by the Operating Official of the component which uses the consultant.

4. RECOMMENDATIONS

It is recommended that Agency Regulations be amended to require that performance reports for consultants be approved by the Operating Official of the component which uses the consultant.

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Chief, Technical Accounting Staff

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